



City of Olathe
Planning Division

STAFF REPORT

Planning Commission Meeting: August 12, 2019

Application:	<u>RZ19-0010:</u> Rezoning from CTY RUR and C-2 to R-2 (Residential Two Family), and preliminary site development plan for Cedar Creek Twin Villas
Location:	Northeast corner of the intersection of College Boulevard and the future Cedar Creek Parkway
Owner:	John Duggan; CCV Tract 13D
Applicant:	Daniel G. Foster, PLA; Schlagel & Associates, PA
Staff Contact:	Zachary Moore, Planner II

Site Area: 20.33± acres **Proposed Use:** Twin Villas

Lots: 24 lots (48 dwelling units) **Plat:** Unplatted

	Plan Olathe Land Use Category	Existing Use	Current Zoning
Site	Cedar Creek Mixed Use Center	Undeveloped	CTY RUR & C-2
North	Primary Greenway/Conventional Neighborhood	Undeveloped	RP-1
South	Cedar Creek Mixed Use Center	Undeveloped	CC
East	Cedar Creek Mixed Use Center	Office	BP
West	Cedar Creek Mixed Use Center	Undeveloped	CTY RUR & C-2

1. Proposal:

The applicant is requesting a rezoning from CTY RUR (County Rural) and C-2 (Community Center) Commercial District to R-2 (Residential Two-Family) District. Accompanying this request is a preliminary site development plan for a 24-lot, 48-unit twin villa development on approximately 20.33± acres. The subject property is located at the northeast corner of the intersection of College Boulevard and the future Cedar Creek Parkway.

This application was originally submitted as a request to rezone the subject property from CTY RUR and C-2 to the CC (Cedar Creek) District for construction of a twin villas subdivision. During the review process, the applicant revised the application to request R-2 zoning instead. The application was originally noticed for the July 22, 2019 Planning Commission agenda, but the change of zoning request required that a new public notice be published. Therefore, this application had be continued to this agenda.

Staff was supportive of the original zoning request, as the request was to rezone the property to the Cedar Creek District. Staff was not supportive of the site development plan that accompanied the zoning request, due to the proposed use, site design, site layout, and building design. While the zoning district request has now changed, the use for the property has remained, and based on the analysis provided in this report, staff recommends denial of the request to rezone the subject property to the R-2 District. Staff informed the applicant of the denial recommendation, however they have still chosen to proceed.

The Cedar Creek Area Plan designates the subject property as part of a Town Center. The R-2 District does not allow for a mix of uses or building size and scale that the Town Center area of the Cedar Creek Area Plan is intended to provide. The requirements and standards for development plan review are based on the zoning district. Staff cannot vet nor make a recommendation regarding the site development plan since there is not a recommendation to approve the zoning district. Despite staff's inability to review the plan, the applicant requested the plan be in the meeting packet as part of their application.

2. Existing Conditions/Site Photos:

The subject property is currently vacant and has been since it was annexed into the City of Olathe. There is existing natural vegetation throughout the site, and a gas easement that runs southwest to northeast through the center of the property.



View of subject property from College Boulevard, looking northwest

3. Neighborhood Meeting/Public Notice:

The applicant mailed the required notice for neighborhood meetings to all property owners and homeowners' associations within 500 feet of the subject property. The applicant held a meeting on July 22, 2019, however no residents attended. It should be noted that there are no residences nor homeowner's associations fall within this radius and staff did not require additional notices be sent due to the recommendation on this petition.

The applicant also mailed the required public notification letters for the public hearing to owners of surrounding properties within 200 feet and posted signs on the subject property per Unified Development Ordinance (UDO) requirements.

4. History:

Approximately 0.50± acres of the subject property were annexed into the City in 1987 (Ordinance 87-90), and subsequently rezoned to C-2 (Community Center) Commercial District in 1988. The remaining 19.83± acres were annexed into the City in 1993 (Ordinance 93-66) and has retained its County zoning designation.

In April 2018, a rezoning application for the Cedar Creek Twin Villas (RZ18-0008) was submitted for the subject property. The application was a request to rezone the subject property to the CC (Cedar Creek) District, with a preliminary site development plan including twin villas, which was very similar to the current request for R-2 zoning. On May 14, 2018, staff provided the applicant with a letter advising that the site layout, site design, and building design did not comply with the standards and criteria required under the Cedar Creek Area Plan, and therefore, could not be supportive as presented. Staff and the applicant met to discuss this analysis and recommendation on multiple occasions with no

resolution. After several months of inactivity, the application was administratively withdrawn without prejudice.

The rezoning application that is currently under consideration was submitted in June 2019. After staff's initial review of the plans, a letter was provided to the applicant on June 19, 2019 stating that staff was supportive of the request to rezone to the Cedar Creek District, but did not support the preliminary site development plan as it did not adhere to the standards and recommended uses of the Town Center in the Cedar Creek Area Plan.

On June 20, 2019, the applicant asked if staff would be supportive if the zoning request was for the R-2 (Residential Two Family) District instead. Staff informed the applicant that the request to rezone to the CC District was the appropriate zoning for the property, however development for anything other than a town center was not. Staff also reiterated that a twin villa development does not meet the standards of the Town Center Area of the Cedar Creek Area Plan. Subsequently, the applicant chose to submit a revised application, to change the zoning request from the CC District to the R-2 District on July 3, 2019.

5. Comprehensive Plan and Cedar Creek Area Plan Analysis:

PlanOlathe

The Comprehensive Plan (PlanOlathe) designates the subject property and nearby area as Cedar Creek Mixed Use Center (see Image 1 below). The Cedar Creek Mixed Use Center consists of a mixture of uses including attached residential, institutional, commercial, and mixed-use (residential over retail). Development options within the Cedar Creek Mixed Use Centers include town centers, suburban centers, office campuses or flex-space mixed use.



Image 1: Location of subject property (outlined in navy) on the Comprehensive Plan Map

Cedar Creek Area Plan

The subject property is also located within the Cedar Creek Area Plan, as can be seen in Image 2, below. The Cedar Creek Area Plan encompasses approximately 4,200 acres of land in the northwestern portion of the City, south of K-10, west of K-7 and generally north of 119th Street.



Image 2: Location of Cedar Creek Area Plan

The Cedar Creek Area Plan Map (Image 2, provided below) designates properties as either Mixed Use, Residential, Open Space + Recreational, Trails, and/or Town Center.



Image 3: Cedar Creek Area Plan Map – Inset Map provided on page 6 (Image 4) for area outlined in purple

The Cedar Creek District is made of two primary subdistricts to encourage development; Residential Subdistricts and Mixed-Use Subdistricts. The subject property is located within the Mixed-Use Subdistrict of the Cedar Creek Area Plan, as can be seen in the areas in red in Image 2, on page 5 of this report. Mixed-Use Subdistricts allow four types of development; Suburban Centers, Town Centers, Office Campuses, and Flex-Space Parks.

The Cedar Creek Area Plan Map further identifies two locations as Town Centers; the northern Town Center is at the intersection of Valley Parkway and Cedar Creek Parkway, and the southern Town Center is at the intersection of College Boulevard and the future Cedar Creek Parkway (the subject property, see Images 4 and 5 below).



Image 4 (above, left): Cedar Creek Area Plan Map at intersection of College Boulevard and Cedar Creek Parkway with the general location of the subject property identified in purple

Image 5 (above, right): Legend from Cedar Creek Area Plan Map

Town Center developments are intended to provide neighborhood services and retail opportunities at a small, pedestrian friendly scale to create a sense of place and amenities and options for local residents. Spaces are to be enclosed by taller (minimum 2-story) buildings that are located close to the street. A mixture of complementary uses is intended to broaden the market and range of hours and activity. The CCAP provides examples of design characteristics common of town center character including:

- a. Vertical development with a minimum height of two stories and extending higher depending on the context of its surroundings;
- b. Zero or minimal front setbacks with building entries and storefronts at the sidewalk;
- c. Streets and other public places, such as plazas and community greens, framed by buildings;
- d. Parking situated on-street and to the rear of the site (sometimes including above or below ground structured parking);
- e. A street environment conducive for pedestrian activity and interaction; and
- f. Housing types ranging from small single family to attached (e.g. brownstones, town homes) or upper floor units.

Areas designated on the Cedar Creek Area Plan Map as Town Center are intended to provide additional flexibility for a more urban mixed use development that is designed to be pedestrian friendly and walkable, offering a variety of community-serving uses, residences, commercial space and offices with public spaces designed for community scale events. When the Cedar Creek Area was being realized and created, two areas designated as Town Center were envisioned as a critical component of it; the northern Town Center at the intersection of Valley Parkway and Cedar Creek Parkway, and the southern Town Center at the intersection of College Boulevard and future Cedar Creek Parkway (the subject property). The northern Town Center area designated by the Cedar Creek Area Plan is zoned C-2 and is partially developed. The existing development in the northern Town Center does not meet the Town Center standards as set forth in the Cedar Creek Area Plan. Therefore, it is imperative that the southern Town Center is developed in a way that will achieve the goals of Town Centers in the Cedar Creek Area Plan.

The Cedar Creek Area Plan established a Cedar Creek Overlay District, which covers the entire Plan area. **Section 18.51.010.D of the Cedar Creek Area Plan states** that “The preferred zoning district within the Cedar Creek Overlay District is Cedar Creek (“CC”) and that “The City Council finds that the preferred zoning district implements the Cedar Creek Area Plan, which is a component of the City’s Comprehensive Plan. As such, rezonings to CC within the Cedar Creek Overlay District are presumptively consistent with the Comprehensive Plan.”

The requested R-2 (Residential Two-Family) District, is a conventional zoning district that does not include required standards that would facilitate development consistent with Town Centers in the Cedar Creek Area Plan. Additionally, the R-2 District would prevent the subject property from being developed with uses such as retail, services, or offices, which are recommended by the Cedar Creek Area Plan for the Mixed-Use Subdistricts and specifically Town Centers. If the subject property were to be rezoned and developed in a way that does not follow the Town Center standards, the Cedar Creek Area Plan will fail one of its plan goals of having a sustainable community. Solely residential development in an area intended to provide community spaces and community serving non-residential uses will require residents of the Cedar Creek Area to travel outside of Cedar Creek for work, shopping, and additional activities. A Town Center development in this area, consistent with the Cedar Creek Area Plan, would provide an opportunity for Cedar Creek residents to work and shop in their community.

Staff recommends denial of the rezoning application as it fails to meet the goals of PlanOlathe, the Cedar Creek Area Plan, and criteria for rezoning as listed in UDO, Section 18.40.090.

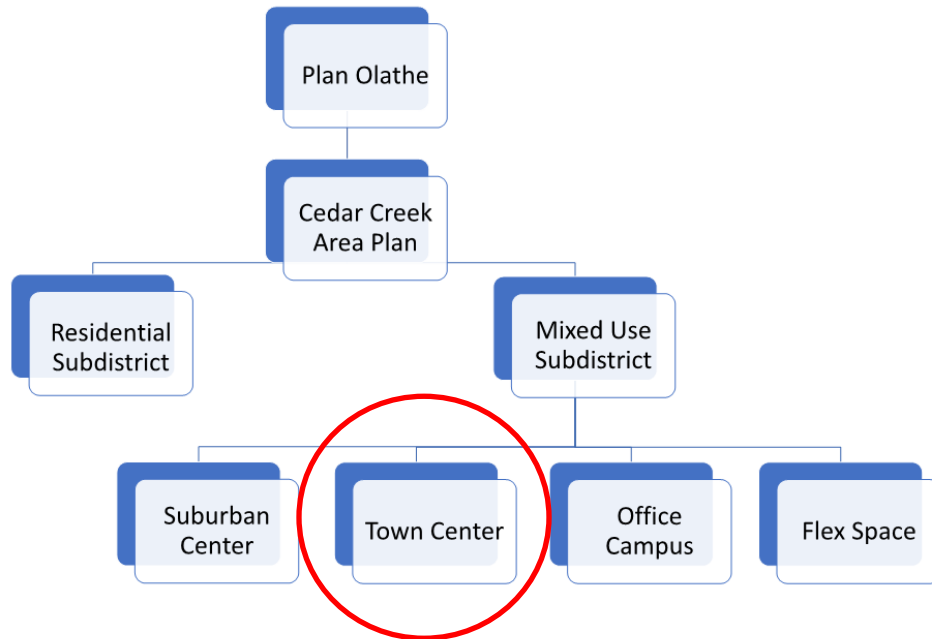
6. Zoning/Land Use Analysis:

The following are criteria for considering rezoning applications as listed in Unified Development Ordinance (UDO) Section 18.40.090.G.

A. The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.

The subject property is located in an area that is designated on the future land use map as Cedar Creek Mixed Use Center. The Cedar Creek Area Plan also identifies the subject property and surrounding area as a Mixed-Use Subdistrict. The subject

property and immediate surrounding area are further identified as a Town Center. The diagram provided below helps explain the progression of land use designations, vision, and allowed development types within the Cedar Creek Area. The uses that are allowed in the R-2 District would prevent future development of the property from developing in a way that would achieve the Town Center vision as identified in the Cedar Creek Area Plan.



B. The character of the neighborhood including but not limited to: land use, zoning, density (residential), floor area (nonresidential and mixed use), architectural style, building materials, height, siting, and open space.

Future development of nearby properties will follow the Town Center standards of the Cedar Creek Area Plan, by providing a mix of uses (both high-density residential and non-residential), community spaces, and a pedestrian-oriented environment. The proposed rezoning and development of twin villas will not be compatible with the character of future development in the Town Center Area, as it will provide a low-density residential use only.

C. The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.

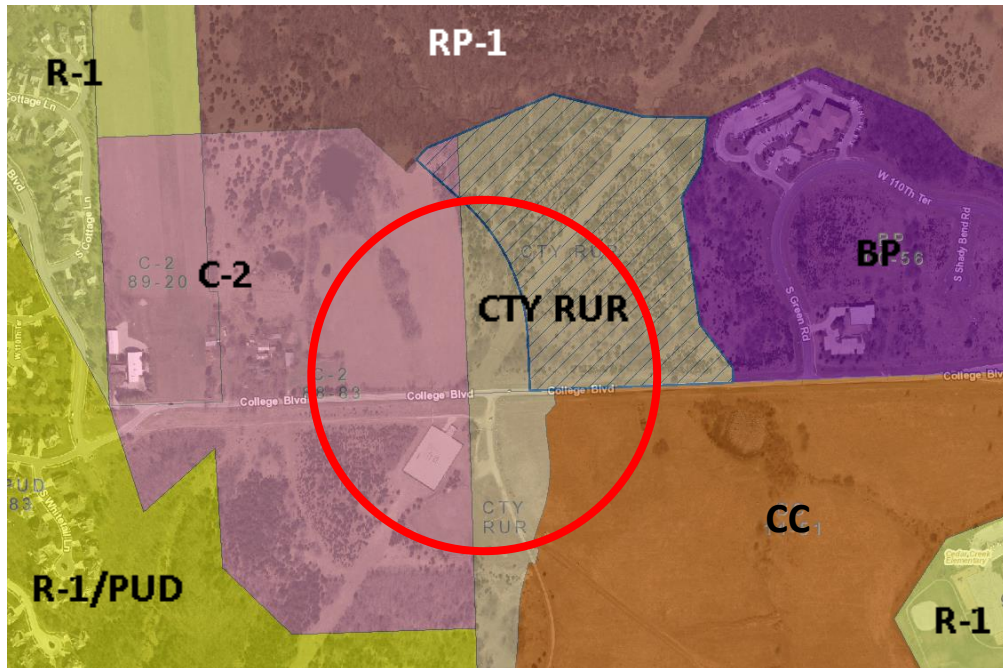


Image 6: Zoning Map of Surrounding Area (subject property is outlined in navy, Town Center generally identified in red)

The surrounding properties have a variation of zoning districts, as can be seen in Image 6 above. The areas that are included within the Town Center designation (identified in red in Image 5 above) on the Cedar Creek Area Plan Map are zoned CC (Cedar Creek), C-2 (Community Center) Commercial District, and CTY RUR (County Rural). Additionally, there is existing BP (Business Park) zoning to the east of the subject property. The proposed R-2 zoning and twin villa development would not be in harmony with the surrounding zoning districts and allowed uses. A more harmonious development of this property would be a mix of high-density residential uses and non-residential uses that would be found in a Town Center development. This will provide a transition to the single-family uses that exist further north, south, and west from the Town Center Area located at the node of College Boulevard and the future Cedar Creek Parkway.

D. The suitability of the property for the uses to which it has been restricted under the applicable zoning district regulations.

The current zoning of the property is CTY RUR (County Rural) and C-2 (Community Center) Commercial. Approximately one-half acre of the subject property is zoned C-2, and that portion of the property does not currently have any street access and is likely too small to develop as currently zoned. The remaining approximately 19.83± acres of the site are currently zoned County Rural and would require a rezoning to a City zoning district to be approved prior to development. If the property were to be rezoned to the R-2 District, there would be a greater limitation on the types of uses that would be allowed than if the property were to be rezoned to the Cedar Creek District.

E. The length of time the property has been vacant as zoned.

Zoning of the subject property has not changed since 1988, when the northwesternmost corner of the property (approximately 0.50± acres) was zoned C-2. The remaining 19.83± acres of the property are currently zoned CTY RUR, and this property was not rezoned when it was annexed into the City in 1993. The property has never been developed.

F. The extent to which approval of the application would detrimentally affect nearby properties.

The proposed rezoning to the R-2 District will detrimentally affect future development of nearby properties. The extension of low-density residential development onto property that is intended to be developed as a Town Center will hinder future commercial development of other properties within the Town Center area.

G. The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property.

Providing neighborhood commercial uses in the Town Center area designated on the Cedar Creek Area Plan will help reduce the number of trips that residents of west Olathe make to significant retail developments in east Olathe. Constructing conventional residential housing at this location in Cedar Creek, rather than remaining consistent with the Cedar Creek Mixed Use recommended in our Comprehensive Plan, will eliminate retail and entertainment opportunities for our residents in this area. Because of this, additional crosstown trips will be added, therefore increasing the impact on the City's road network.

H. The extent to which the proposed use would create air pollution, water pollution, noise pollution or other environmental harm.

Staff is not aware of any potential for unlawful levels of air, water or noise pollution with the proposed development. Any proposed development will be required to meet the City's stormwater requirements and best management practices for water quality.

I. The economic impact of the proposed use on the community.

If approved, the proposed development would generate a residential tax base for the subject property. If the property were to be rezoned to the R-2 District, the residential uses would generate less tax revenue than if the property were rezoned to the CC (Cedar Creek) District and developed retail and services uses consistent with the Cedar Creek Area Plan.

7. Staff Recommendation:

Staff recommends denial of RZ19-0010 for the following reasons:

- A. As detailed in this report, the proposed rezoning to the R-2 District is not consistent with the vision of the Cedar Creek Area Plan, as an extension of the Comprehensive Plan, for the Cedar Creek Mixed Use District, specifically the Town Center designation.
- B. The proposed rezoning to the R-2 (Residential Two-Family) District will have a detrimental impact to the future development of this area in accordance with PlanOlathe and the Cedar Creek Area Plan.
- C. The CC (Cedar Creek) zoning district is identified in the Cedar Creek Area Plan as the preferred zoning district for properties within the Cedar Creek Overlay District.
- D. As proposed, this application fails several of the criteria for a rezoning under section 18.40.090 of the Unified Development Ordinance.
 - 1) *“The conformance of the proposed use to the Comprehensive Plan and other adopted planning policies.”*
 - 2) *“The character of the neighborhood including but not limited to: land use, zoning, density (residential), floor area (nonresidential and mixed use), architectural style, building materials, height, siting, and open space.”*
 - 3) *“The zoning and uses of nearby properties, and the extent to which the proposed use would be in harmony with such zoning and uses.”*
 - 4) *“The extent to which approval of the application would detrimentally affect nearby properties.”*
 - 5) *“The extent to which the proposed use would adversely affect the capacity or safety of that portion of the road network influenced by the use, or present parking problems in the vicinity of the property”.*

If the Planning Commission recommends denial of the rezoning request, the application will still proceed to the City Council. If the rezoning is denied, the associated preliminary development plan automatically fails as the requirements and standards for the plan review are based upon the requested zoning district. Should the rezoning be approved, a preliminary development plan would return at a later date to the Planning Commission and City Council following staff review.